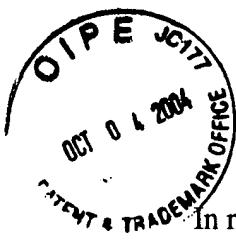


**PATENT APPLICATION**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**



In re application of

Docket No: Q61173

Takeshi FUNAHASHI

Appln. No.: 09/686,371

Group Art Unit: 2625

Confirmation No.: 4799

Examiner: Seyed H. Azarian

Filed: October 12, 2000

For: **IMAGE SENDING APPARATUS AND IMAGE TRANSMISSION INFORMATION  
DISPLAY APPARATUS**

**SUBMISSION OF APPEAL BRIEF**

**MAIL STOP APPEAL BRIEF - PATENTS**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Submitted herewith please find an Appeal Brief. A check for the statutory fee of \$340.00 is attached. The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account. A duplicate copy of this paper is attached.

Respectfully submitted,

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WASHINGTON OFFICE

**23373**

CUSTOMER NUMBER

Date: October 4, 2004



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**APPEAL BRIEF UNDER 37 C.F.R. § 41.37**

**MAIL STOP APPEAL BRIEF - PATENTS**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

In accordance with the provisions of 37 C.F.R. § 41.37, Appellant submits the following:

**I. REAL PARTY IN INTEREST**

The real party in interest in this appeal is Fuji Photo Film, Co., Ltd. of Japan, by virtue of an assignment executed by Takeshi Funahashi ("Appellant" hereafter) on October 3, 2000, and recorded by the Assignment Branch of the U.S. Patent and Trademark Office. The assignment was recorded on October 12, 2000 at Reel 011243, Frame 0904.

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U.S. Appln. No.: 09/686,371

**II. RELATED APPEALS AND INTERFERENCES**

To the knowledge and belief of Appellant, the Assignee, and the undersigned, there are no other appeals or interferences before the Board of Appeals and Interferences that will directly affect or be affected by the Board's decision in the instant Appeal.

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**III. STATUS OF CLAIMS**

Claims 1-20 are all the claims pending in the application.

Claims 8-11 are allowed.

Claims 1-7 and 12-20 are rejected.

The rejection of claims 1-7 and 12-20 is being appealed.

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**IV. STATUS OF AMENDMENTS**

All Amendments are believed to have been previously entered and made of record.

**V. SUMMARY OF THE CLAIMED SUBJECT MATTER**

Independent claim 1 of Appellant's invention recites an image sending apparatus 1 (FIG. 1; page 17, lines 5-17) for sending an image input from an external apparatus to a predetermined addressee, the image sending apparatus comprising: display means 3 for displaying the image having been input (FIGS. 1 and 2; page 16, lines 24-25; page 18, line 17 - page 19, line 25); transmission means 4 for sending the image (page 17, lines 5-15; page 22, line 20 - page 23, line 3); unnecessary image designating means 6 for enabling designation of the image displayed on the display means as an unnecessary image (page 17, lines 14-15; page 22, lines 6-14); and transmission control means 5 for controlling the transmission means so as not to send the image having been designated as the unnecessary image (page 17, lines 12-17; page 18, line 6-20; page 22, line 20 - page 24, line 12).

Independent claim 6 of Appellant's invention recites an image transmission information display apparatus 50 (FIG. 3) for displaying transmission information on a display screen for confirmation of a transmission status of a medical image to be sent to one or more addressees, the image transmission information display apparatus (page 26, line 19 - page 27, line 11) comprising: image list display control means 101 for displaying an image list on the screen (page 30, lines 15 - page 32, line 4); transmission completion detection means 105 for outputting a transmission completion signal by detecting normal completion of transmission of the medical image to all the addressees (page 35, line 22 - page 36, line 9); and transmission completion display control means 106 for displaying, in an information display area of the image in the image list, a transmission completion status indicating the normal completion of the transmission

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of the medical image to all the addressees by receiving the transmission completion signal (page 35, line 22 - page 36, line 15).

Independent claim 7 of Appellant's invention recites an image transmission information display apparatus 50 (FIG. 3) for displaying transmission information on a display screen for confirmation of a transmission status of a medical image to be sent to one or more addressees, the image transmission information display apparatus (page 26, line 19 - page 27, line 11) comprising: image list display control means 101 for displaying an image list on the screen (page 30, lines 15 - page 32, line 4); transmission processing end detection means 103 for outputting a transmission processing end signal by detecting the end of transmission processing of the medical image to all the addressees (page 34, line 16 - page 35, line 3); and transmission processing end display control means 104 for displaying, in an information display area of the image in the image list, a transmission processing end status indicating the end of the transmission processing of the medical image to all the addressees by receiving the transmission processing end signal (page 34, line 16 - page 35, line 3).

The claimed elemental means such as the display means, transmission means, unnecessary image designating means, and transmission control means have the corresponding structure described with reference to the exemplary embodiments set forth above.

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**VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

Claims 1-7 and 12-20 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Funahashi et al. (US 4,994,662) in view of Takeo (US 5,796,870).

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**VII. ARGUMENTS**

Appellant respectfully submits that the claims are not obvious over the applied references.

As a preliminary matter, Appellant points out that the Examiner's comments in the Advisory Action simply recite portions of the Funahashi et al. reference that allegedly make general disclosures, without any discussion of the specific limitations of the claims of the present invention. The Examiner's general reliance on cols. 9-11 of Funahashi et al. does not correct the record as to the lack of transmission of an image to a designated addressee or lack of non-transmission of an unnecessary image. Rather, the cited portion merely describes the selection and processing based on a selected region. For any region not selected, the Examiner may not presume that the information is simply not processed or transmitted. Absent a clear teaching of necessary processing as described by claim 1 and as discussed below, all the sending claims are patentable.

**Argument 1: Funahashi et al. and Takeo do not teach or suggest a transmission means for sending an image input from an external apparatus to a predetermined addressee.**

The Examiner asserts that Funahashi et al. discloses the transmission means claimed in claim 1 of the present invention. In particular, the Examiner points to col. 8, lines 21-40 of Funahashi et al. as allegedly disclosing the claimed transmission means. This portion of the reference discloses the following:

*FIG. 1C is a block diagram showing the general configuration of the second radiation image read-out apparatus in accordance with the present invention, wherein no preliminary readout is carried out.*

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*Like the first radiation image read-out apparatus in accordance with the present invention, which is shown in FIG. 1A, the second radiation image read-out apparatus in accordance with the present invention shown in FIG. 1C comprises a read-out section 11, an image processing section 12, and a condition adjusting section 13.*

*However, the read-out section 11 has no preliminary read-out means, but is provided with only a read-out means 11a for carrying out a read-out operation wherein a radiation image is read out from a recording medium, such as a stimulable phosphor sheet or X-ray film, on which the radiation image has been recorded, and obtaining an image signal representing said radiation image. The read-out means 11a corresponds to the final read-out means 1b of the first radiation image read-out apparatus shown in FIG. 1A.*

Claim 1 is directed to an image sending apparatus for sending an image input from an external apparatus to a predetermined addressee. Recited in claim 1 is a transmission means for sending an image input from an external apparatus to a predetermined addressee. Rather than disclosing such a transmission means, the cited excerpt of Funahashi et al. discloses a read-out means for reading a radiation image. The excerpt is silent with respect to a transmission means for sending the image to a predetermined addressee.

The radiation image recording apparatus disclosed by Funahashi et al. irradiates an object and records a radiation image of the object on a stimulable phosphor sheet.

The radiation image readout apparatus disclosed by Funahashi et al. scans the stimulable phosphor sheet with stimulating rays, reads out the radiation image on the sheet, and converts the image into an analog signal. Further, the radiation image read-out apparatus converts the analog signal into a digital signal to obtain digital image data.

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By contrast, the image sending apparatus of the present invention sends the digital image data to addressees, e.g., image display apparatuses of internists, surgeons and the like, who have requested transmission of the digital image data.

As described in the Response filed May 3, 2004, Appellant's representative conducted an interview with the Examiner on April 7, 2004. Based on the interview, it appears that the Examiner's rejection of the claims rests on his belief that the limitation of "sending the image" in claim 1 is too broad. Appellant's representative explained that sending the image to the predetermined addressee is quite different from what is disclosed in the applied references, but the Examiner thinks that feeding the preliminary read-out image signal SP into the computer system 70 corresponds to sending the image in claim 1. See col. 13, line 59 - col. 14, line 2 of Funahashi et al. Appellant's representative responded by pointing out that the computer system 70 simply displays the image signal, without the system having a transmission means for sending the image to a predetermined addressee.

Alternatively, the Examiner argued that the computer system 70 can send the image signal. In response to this argument, Appellant's representative pointed out that such sending of the image signal is not disclosed in Funahashi et al.

Further, the Examiner contends that other prior art would disclose the claimed transmission means for sending the image. However, even if the Examiner's contention is true, at this time, the Examiner has not applied such a reference, and the rejection based on the combination of Funahashi et al. and Takeo should be withdrawn.

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As described above, it is clear that the image sending apparatus the present invention is completely different from the radiation image read-out apparatus of the cited reference.

Furthermore, Takeo fails to make up for the above-described deficiency of Funahashi et al.

Thus, Appellant submits that claim 1 is allowable over the prior art.

**Argument 2: Funahashi et al. and Takeo fail to teach or suggest an unnecessary image designating means for enabling designation of the image displayed on the display means as an unnecessary image.**

In the Final Office Action dated January 2, 2004, the Examiner provided a response to Appellant's arguments in the Amendment filed November 3, 2003, related to the unnecessary image designating means recited in claim 1 of the present invention. Specifically, the Examiner referred to col. 9, lines 31-47 and col. 9, line 59 - col. 10, line 8 of Funahashi et al. as allegedly disclosing this feature of claim 1. However, Appellant submits that the cited portions of the reference fail to disclose the unnecessary image designating means for enabling designation of the image displayed on the display means as an unnecessary image. Col. 9 @ lines 31-47 describes that after an image is displayed, the region (selected from among the plurality of regions on a recording medium) to be used during the determination of the image processing conditions, a desired reproduced image density D0 corresponding to the mean-level value of the image signal corresponding to the region, and a desired image signal range L are designated with the second input means 13e. Col. 9, line 59 - col. 10, line 8 discusses what information may be designated after the preliminary readout has been completed. In other words, neither of the cited portions of Funahashi et al. disclose or suggest the claimed unnecessary image designating

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means for enabling designation of the image displayed on the display means as an unnecessary image.

In Funahashi et al., judgment is made on whether it is preferable to use a region of an image as a standard for condition setting for subsequent processing. If it is judged that it is not preferable to use the region as the standard, a more appropriate region is selected. On the contrary, in the present invention, judgments are made by the unnecessary image designating means (claim 1) on each of the images regarding whether it is appropriate to be transmitted. If an image is judged to be inappropriate for transmission, the unnecessary image designating means designates the image as an unnecessary image. Therefore, the object to be judged is different between the present invention and the cited reference (cited reference: a region of an image; present invention: an entire image). Further, the purpose of judgment is different between the present invention and the cited reference.

Takeo also fails to disclose the unnecessary image designating means recited in claim 1.

Accordingly, claim 1 is allowable for this additional reason.

**Argument 3: Funahashi et al. and Takeo fail to teach or suggest a transmission control means for controlling the transmission means so as not to send the image having been designated as the unnecessary image.**

A method for compressing dynamic ranges in Takeo is carried out by an image processing means 54 of cited reference, Funahashi et al. assuming arguendo that the references are combinable. The method for compressing dynamic ranges is a method for obtaining an image, of which dynamic range has been compressed, from an original image. On the contrary, the transmission control means of the present invention controls transmission so that each of

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images is either sent or not sent to the addressee. Therefore, the object to be processed is completely different (cited reference: processing based on individual pixels constructing an image (image properties are changed in processing); present invention: processing is performed in units of individual images).

Further, the cited reference (column 19, lines 48-57 in Takeo, US 5,796,870) discloses that an unsharp mask signal obtained by unsharpening a region such as tissue which is unnecessary for reading an image and noise in a radiation image is adopted for dynamic range compression. Therefore, the cited reference is irrelevant to controlling whether an entire image is sent, as carried out by the transmission control means of the present invention.

Appellant submits that claim 1 is allowable over the prior art for this reason as well.

**Argument 4: Funahashi et al. and Takeo do not teach or suggest an image list display control means for displaying an image list on the screen.**

In the Amendment filed November 3, 2003, Appellant argued that the references do not disclose the claimed image list display control means for displaying an image list on the screen as recited in claim 6. Further, Appellant argued that Funahashi et al. does not even describe an image list or displaying an image list on a screen. Rather than directly responding to these arguments, the Examiner pointed to col. 11, lines 18-41 of Funahashi et al. in the “Response to Amendment” of the Final Office Action of January 2, 2004. However, this newly-cited portion of the reference also fails to teach or suggest the claimed image list display control means. Instead, col. 11, lines 18-41 discloses entering information about the use of a region selecting mode and displaying images on a display means. Hence, claim 6 is allowable over the prior art.

Appellant submits that claim 7 is allowable for reasons analogous to those for claim 6.

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Claims 16, 18 and 20 are allowable, at least because of their dependence from claims 6 and 7, respectively.

**Argument 5: Funahashi et al. and Takeo do not teach or suggest that the display means comprises a screen including an unnecessary image list display area, which displays a list of accompanying information of the unnecessary image.**

Appellant submits that the prior art fails to disclose the claimed display means that comprises a screen including an unnecessary image list display area, which displays a list of accompanying information of the unnecessary image, as recited in claim 12 of the present application. The Examiner asserts that Funahashi et al. discloses the features of claim 12 at col. 14, lines 3-14, but Appellant respectfully disagrees. Lines 3-14 of the reference describe that a judgment is made as to whether the mode of adjusting the readout conditions for the final readout from the preliminary readout image signal is the region selecting mode. By contrast, claim 12 of the present invention recites that the display means comprises a screen including an unnecessary image list display area, which displays a list of accompanying information of the unnecessary image. The cited portion of the reference simply fails to disclose this feature of the claims. Thus, claim 12 is allowable for this reason also, as well as claim 13 due to its dependence from claim 12.

**Argument 6: Funahashi et al. and Takeo do not teach or suggest that the plurality of addressees are inter-connected by a network, and the unnecessary image comprises an entire image read-out from the external apparatus.**

Appellant submits that the prior art fails to teach or suggest that the plurality of addressees are inter-connected by a network, and the unnecessary image comprises an entire image read-out from the external apparatus, as recited in claim 19. The Examiner points to col.

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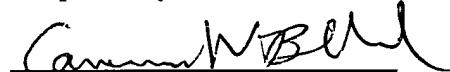
16, lines 36-52 and col. 14, lines 20-35 of Funahashi et al. as allegedly disclosing the features of claim 19, but the cited portions of the reference are silent with respect to a plurality of addressees being inter-connected by a network. Rather, the cited excerpts describe the detecting of light by MOS sensor 85, and judging whether an object image was stored at an intended position on a stimulable phosphor sheet, respectively. Therefore, claim 19 is allowable over the prior art.

Appellant respectfully requests the members of the Board to reverse the rejection of all appealed claims and to find each of the claims allowable as defining subject matter which is patentable over the applied reference.

Unless a check is submitted herewith for the fee required under 37 C.F.R. §41.37 and 1.17(c), please charge said fee to Deposit Account No. 19-4880.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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## CLAIMS APPENDIX

### CLAIMS 1-7 and 12-20 ON APPEAL:

1. An image sending apparatus for sending an image input from an external apparatus to a predetermined addressee, the image sending apparatus comprising:
  - display means for displaying the image having been input;
  - transmission means for sending the image;
  - unnecessary image designating means for enabling designation of the image displayed on the display means as an unnecessary image; and
  - transmission control means for controlling the transmission means so as not to send the image having been designated as the unnecessary image.
2. An image sending apparatus as claimed in Claim 1, wherein the unnecessary image designating means carries out the designation of the unnecessary image by moving display of accompanying information of the image to an unnecessary image list on the display means.
3. An image sending apparatus as claimed in Claim 1 or 2, wherein the transmission control means controls the transmission means so as not to send an image having medical examination information which is the same as medical examination information of the image having been designated as the unnecessary image.
4. An image sending apparatus as claimed in Claim 1 or 2, wherein the image having been designated as the unnecessary image is automatically deleted after a predetermined time has elapsed.
5. An image sending apparatus as claimed in Claim 1 or 2, wherein the designation of the image as the unnecessary image can be cancelled.

6. An image transmission information display apparatus for displaying transmission information on a display screen for confirmation of a transmission status of a medical image to be sent to one or more addressees, the image transmission information display apparatus comprising:

image list display control means for displaying an image list on the screen; transmission completion detection means for outputting a transmission completion signal by detecting normal completion of transmission of the medical image to all the addressees; and transmission completion display control means for displaying, in an information display area of the image in the image list, a transmission completion status indicating the normal completion of the transmission of the medical image to all the addressees by receiving the transmission completion signal.

7. An image transmission information display apparatus for displaying transmission information on a display screen for confirmation of a transmission status of a medical image to be sent to one or more addressees, the image transmission information display apparatus comprising:

image list display control means for displaying an image list on the screen; transmission processing end detection means for outputting a transmission processing end signal by detecting the end of transmission processing of the medical image to all the addressees; and transmission processing end display control means for displaying, in an information display area of the image in the image list, a transmission processing end status indicating the

end of the transmission processing of the medical image to all the addressees by receiving the transmission processing end signal.

12. The image sending apparatus as claimed in claim 1, wherein the display means comprises a screen including an unnecessary image list display area, which displays a list of accompanying information of the unnecessary image.

13. The image sending apparatus as claimed in claim 12, wherein the screen further includes a thumbnail image display area including a plurality of thumbnail image display frames.

14. The image sending apparatus as claimed in claim 1, wherein the display means comprises a screen including a thumbnail image display area including a plurality of thumbnail image display frames.

15. The image sending apparatus as claimed in claim 1, wherein the transmission means sends the image to the predetermined addressee from among a plurality of addressees.

16. The apparatus of claim 6 wherein the transmission detection means outputs the transmission completion signal upon detecting normal completion of the medical image to multiple addressees.

17. The apparatus of claim 15, wherein the plurality of addressees are located in physical sites remote from each other.

18. The apparatus of claim 16 wherein the multiple addressees are located in physical sites remote from each other.

19. The apparatus of claim 15 wherein the plurality of addressees are inter-connected by a network, and the unnecessary image comprises an entire image read-out from the external apparatus.

20. The apparatus of claim 16 wherein the multiple addressees are inter-connected by a network.

## EVIDENCE APPENDIX

Pursuant to 37 C.F.R. § 41.37(ix), submitted herewith are copies of any evidence submitted pursuant to 37 C.F.R. §§ 1.130, 1.131, or 1.132 or any other evidence entered by the Examiner and relied upon by Appellant in the appeal.

NONE.

## RELATED PROCEEDINGS APPENDIX

Submitted herewith are copies of decisions rendered by a court or the Board in any proceeding identified about in Section II pursuant to 37 C.F.R. § 41.37(c)(1)(ii).

NONE.